

A
STATE
OF THE
RISE
AND
PROGRESS
OF THE
DISPUTES with SPAIN.



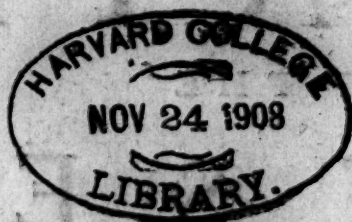
L O N D O N:

Printed for H. GOREHAM, next the Leg-
Tavern, in Fleet-Street. 1740.

[Price One Shilling.]

BN 2-50-40

BN 2-50-40



By exchange
New York Public Library

PROCESSES
OF THE

DISPUTES WITH SPAIN.

[Faint, illegible text]

LONDON

Printed for H. G. ...

[...]

A STATE of the
RISE and PROGRESS
OF THE
DISPUTES with SPAIN.

THE War we are at present engaged in with *Spain* has rendered our Disputes with that Crown, the Object of all Mens Attention. But the most attentive and the most curious are, I believe, yet at a loss, to account for the surprising Obstinacy of the Court of *Spain*, to deny our most evident and indubitable Right to a free Navigation in the *American* Seas. This Denial rendered all Expectations of an Accommodation by the late Convention ridiculous and absurd: And the same Denial has plunged us into a War, so suddenly after that seeming Conclusion of all our Differences. To account for this Obstinacy, nothing can enable us so well, as an historical Deduction of our Disputes with that Crown, and of our Negotiations to adjust them; and it is to be hoped, that as no Disadvantage can ensue to the Nation from setting the Errors of our past Conduct now in the clearest Light; so the Methods used at Home to conceal, to disguise those Errors, and even to get them approved, will not be past over without the proper Reflections, by any Well-wisher to his Country.

The *Spaniards* began to be disturbed by the *English* in their Possession of the *West Indies* not many Years after the Discovery of them by *Columbus* in 1492 : And yet there appears no express Stipulation relating to those Parts in any of the Treaties concluded between the Crowns of *Great Britain* and *Spain*, before the Year 1667. In that Year a Treaty of Peace and Commerce was concluded between the two Nations: The 8th Article of which grants to the *English* in both the *Indies* all that was granted to the *States General* by their Treaty with *Spain* made at *Munster* in 1648. It confirms to each Party all the Possessions they held in *America* at that Time; and prohibits the Subjects of either Confederate, to trade in any Places possessed by the other in that Part of the World.

This Treaty, however, did not hinder the *English* from continuing Hostilities in *America*; where the *Spaniards* having suffered many and great Losses, were reduced to sue for, and to purchase with an Oblivion of all past Injuries, a new Treaty that should be more effectual. This was granted them in 1670, and is what is commonly called the *American Treaty*, altho' it be in Effect no more than a Renewal of that of 1667. The principal Stipulations in it are the same with those in the Treaty of *Munster*: A Confirmation of the Possessions of each Nation, and a Prohibition of all Trade between their respective Colonies. But the Peace concluded by it was to be faithfully and sincerely observed on both Sides. All

All Commerce with the *Spanish* Colonies being thus forbid by these Treaties, the King of *England* could no longer complain, if such of his Subjects as were found trading on their Coasts, were treated by the *Spaniards* according to the Severity of their Laws and Ordinances. The *English* Subjects carrying on a Trade there, could not expect to be protected in it by their King, nor to be treated, if they were taken, as Prisoners of War by the *Spaniards*: They knew they would be treated as Smugglers; and as such, when they ventured to trade, they took their Precautions.

In 1674, the Queen Mother of *Spain*, gave, by her Cedula of the 22d of *February*, Power to the Governors in the *West Indies* to 'grant
' Corsairs Patents to all who should demand
' them, to fit out Vessels to cruize against the
' Pirates on the neighbouring Coast. Her Reasons are

' That the King of *France* had declared
' War against *Spain*.

' That Complaints had been made that Piracies were committed in the *American* Seas
' by the *English*, who rob'd, kill'd and plunder'd the *Spaniards* trading from one Port
' to another; and that her Majesty had observed, as it is said in the Cedula, that nothing in the Treaty of Peace adjusted with
' *England* in 1670, hindered the *Spaniards* in
' the *Indies* from defending themselves from
' the Pirates of what Nation soever who should
' attempt to infest their Coasts.

She likewise accompanied her Cedula with
In-

Instructions to be inserted in all Corsairs Patents, by the 19th Article of which they are not to do any Thing against the *English* contrary to the Articles of Peace which treat of Corsairs.

Upon this Foot Things remained a long Time in the *West Indies*.

A Trade prohibited to all Nations has in some Degree been carried on with the *Spaniards* by the Subjects of all the trading Nations of *Europe*; and the Subjects of all these Nations have been treated according to the *Spanish* Laws whenever they have been taken actually carrying on a Trade prohibited by the Treaties between the Countries to which they belong, and the Crown of *Spain*. To this there is no Objection, nor has any Objection been made. The *Spaniards* employed to cruize upon their Coast have been often guilty of Excesses; and when these Excesses have been committed in Cases, where perhaps the Sufferers could not strictly justify their Proceedings, altho' they have been complained of by many Nations, yet the Complaints seem to have been generally made, more to comply with Form than to obtain Reparation; and Redress has been constantly denied,

But the *Spaniards* finding that the established Method of trading from *Old Spain* was not sufficient to supply the Wants, or at least to satisfy the Desires of the Inhabitants of their *American* Colonies, that therefore the Temptation to Foreigners to trade privately on those Coasts with great Advantage to themselves, and to the *Spanish* Subjects must necessarily

con-

continue, and that the Ships set out to cover their Coasts, not to infest the Seas, were unable to prevent effectually a Trade carried on by small Vessels, armed to defend themselves, or fitted to make their Escape, have presumed to advance a Pretension unsupported by Treaties, and destructive of the Trade and Navigation of all Nations in the *American Seas*, instead of taking the proper Methods practised by all Nations, to hinder their own Subjects, over whom they have an absolute power, from carrying on an illicit Trade.

Not contented with the Right to confiscate all Ships found *actually* trading on their Coast, which is implied in the Prohibition of Trade stipulated by Treaties, they pretend now, that *sailing within a certain Distance of their Coast*, shall be a Proof of an Intention at least to trade there; altho' by the singular Situation of the different Possessions, by the Course of Currents and Winds, and by other peculiar Circumstances, the approaching to the Coast, in *that* Part of the World, is not even a ground of Suspicion, whatever it might be in many others. They pretend likewise that they have a Right *to search all Ships sailing in those Seas*, and that the Discovery of any Commodities of the Produce of their Colonies on board of any Ship, is a Proof that such Ship has carried on a prohibited Trade, and is therefore to be confiscated; whereas even supposing these Goods to have been the Return of a prohibited Commerce with the *Spaniards*, it does not follow

follow, that after they have been sold in the Colonies of other Nations, and are come into the Possession of Persons who have a Right to carry any Commodities through those Seas, they still remain liable to be visited and seized. Much less will it follow, that every Ship, on Board of which such Goods may be found, is the same Ship that traded for them on the *Spanish* Coast: Nay if it should prove so, it cannot be said, I think, that because a Ship was once concerned in unlawful Trade, she shall afterwards be seizable whilst she is proceeding on a lawful Voyage, or that the *Spaniards* have a Right to seize Ships that are not trading on their Coast, because they have a Right to prevent a prohibited Trade there.

This new and groundless Pretension is become the Principle on which all the Depredations of the *Spaniards* on the *British* Subjects in *America* have been committed and justified. It may be called *new*, since the *Pretension* was never heard of till the Year 1726, tho' the Practice is, I believe, coeval with the present auspicious Administration.

In 1726 it was first avowed in Memorials sent from the Court of *Madrid* to that of *London* *, on Occasion of a *British* Squadron sent into the *American* Seas, under the Command of Admiral *Hofier*. Whether this

* Letter from the Marquis de la Paz to Mr. Stanhope, Sep. 30 1726, and Letter from the Marquis de Pozobueno to the Duke of Newcastle, Jan. 1. 1727. Dec. 21. 1726.

Pretension was not understood, or whether it was winked at by our Ministers, I presume not to determine. They who remember the Instructions given to Mr. *Hosier*, may incline to think that our Ministers were enough unacquainted with Treaties and with Trade, not to know whether the *Spaniards* advanced a new Pretension, or claimed an antient Right. They who remember the whole Conduct of that Expedition, and the other Anecdots of the same Year, may incline to think that our Ministers could not fail to discern the Nature and Tendency of a Pretension never made before, but every Day explained by the Proceedings of the *Spaniards*, tho' they chose to dissemble an Injury they were resolved not to resent. On this Head there may be different Opinions; but I dare appeal to the Sense of the whole Nation, and affirm that there can be no different Opinions on some other Points which I am going to mention. There is not, there cannot be a Doubt made by any Man, whether such a Pretension as this should not have been stopped as soon as started; whether the Right of *Britain*, nay the common Right of Mankind, should not have been specifically and strenuously asserted, as soon as this Invasion of it was avowed; whether, besides the Wisdom of checking such an Attempt in the first Instances, and not suffering such an Usurpation to grow and to acquire by Time a Colour of Right, there could be a Conjunction more capable of rousing Men, who paid
any

any Regard to the Honour and Interest of their Country, than this was, when *Spain* set us at Defiance in *Europe* as well as *America*, and actually besieged *Gibraltar*; in a Word, whether we might not have chastised the Insolence of that Court, and have reduced her by the Force of our real and superior maritime Power, to keep within the Bounds prescribed to her by Treaties, at a much less Expence than that of so many gallant Officers and Seamen as perished miserably and ingloriously in that unmeaning and shameful Expedition.

On these Heads, I presume to say, there can be no Difference of Opinion, and yet nothing of this Sort was done, nay the very contrary was done, and to the Dishonour of the *British* Name, this groundless, this impertinent Pretension, has been in Effect, tho' not in direct Terms, *admitted* by the Ministers of *Great Britain*, in the whole Course of these tedious Negotiations, wherewith they have gained Time, the sole Point they meant to gain, and avoided a Decision, the sole Point they should have pushed to obtain.

In all the Memorials that have passed between the two Courts since the Year 1726, in all the Treaties that have been made, we have been imposed upon by *general Terms* by the *Spaniards*, who offered, and by our Ministers who accepted them. The *Spaniards*, whenever they have pretended to make Restitution of Captures, have carefully excepted *all Ships concerned*

cerned in illicit Trade; And we have always acquiesced in these obscure Terms, on the Explanation of which depends the great Point in Dispute, the Point never regarded by those who had the Conduct of our Affairs, and the Point never to have been yielded or left in doubt by them; because it could not be yielded without giving up at the same time our whole Trade to the *West-Indies*, and even our Possession of the valuable Island of *Jamaica*; nor be left in doubt without rendring both precarious. However, after we had been amused with general Words in the Preliminaries of 1727, and in the Act of the *Pardo* in 1728; After our Right to an unconfined and uninterrupted Navigation in the *American* Seas had been proved, the Pretensions of *Spain* laid open and exposed, and the dangerous Consequence of them to our Trade made manifest by the Merchants who applied to the House of Commons in 1728-9, our Ministers still continued to amuse the Nation with general and uncertain Expressions: For we obtained no more by the famous Treaty of *Seville* in 1729. And about a Month after signing that Treaty, the *Spanish* Ministers in the Cedula * for restoring the Prizes taken from the *English* since the 22d of *June* 1728, O. S. except all *Prizes taken on account of unlawful Trade in those Places and Limits* which are prohibited by the Laws and Treaties of

C

Peace

† December 14th 1729, O. S.

Peace and Commerce. From this Cedula (rendered insignificant by this scandalous Exception) the Ignorance of our Ministers expected, or at least our Ministers pretended to expect, Wonders: In so much that they ordered * Mr. Keene to adjust with the *Spaniards* the proper Methods of getting from *America* the Ships that should be restored by virtue of this notable Cedula. But the *Spaniards* knew that none were necessary. They went on *searching* and *confiscating*, and we continued to *submit*, until the Depredations increasing, the Merchants were forced to repeat their Application to Parliament in 1730, and then an Address to the Crown in *General Terms* was again voted, as had been done in 1728, and with the same Effect. Our Ministers indeed were made sensible that something should be done, and they proposed † that a Convention should be made with *Spain* concerning these Grievances.

Our Minister at the Court of *Spain* accordingly presented a Project of a Declaration to Mons. *Patinbo* ‡: But finding that he objected to one part of it, that prohibited *Spain* from authorizing their Officers in the *Indies* to give Commissions for *Guarda Costa's*, our supple Minister immediately submits, and very readily presents him with another Project, which in his Opinion we are told is entirely

* D. of N. Letter, 25 Dec. 1729.

† D. of N. Lett. Aug. 3. 1731.

‡ Mr. K. Lett. Oct. 31 O. S. Nov. 24 1731 O. S.

tirely agreeable to our Treaties, and to the Orders that have been sent to the *West-Indies*. This last Project Mr. *Patinbo* said would pass with some few Alterations in the Expressions, and the Marquiss *de la Paz* likewise approved of it; what it produced we shall see presently.

At this Time our Ministers inform Mr. *Keene* † “ That far from the Disorders ceasing, “ the Number of *Spanish* Privateers, or rather “ Pirates, under the Denomination of *Guarda* “ *Costa's*, increases daily; and that the Gain “ which the *Spanish* Governors in *America* “ make by countenancing these unlawful practices, and sometimes being themselves Sharers “ in the fitting out of those privateers is such a “ Temptation, that unless the *Court* of *Spain* “ takes some more effectual Method, as by punishing those who have most notoriously offended that way, and making them answerable for the *Disorders* and *Irregularities* committed by Ships to which they grant Commissions, or which are harboured in their Ports with Impunity, there will never be an End of the unjustifiable, and, as it too frequently happens, barbarous practices.” And about a Month after * they order him, “ to observe to the *Spanish* Ministers, That a Ship's having been employed in an unlawful Trade, is a pretence that will always be alledged. He is to put them in Mind of the undue and indeed barbarous Methods used by the Cap-

† D. of N. Lett. Nov. 18. 1731.

* D. of N. Lett. Dec. 9. 1731.

"tors to procure pretended Proofs of such un-
 "lawful Trade as the putting *clandestinely Span-*
 "nish Money or Goods on board, and the cajol-
 "ing some of the Crew, and even using Threats
 "and Torture to make them give *false Evidence*
 "against their Captains and Owners;" and he
 is to insist, "That such Practices may be pre-
 "vented and punished, and where it plainly
 "appears upon the State of the Case, that
 "there is no Colour for this Allegation of un-
 "lawful Commerce, the Order may be posi-
 "tive for immediate Restitution."

I have quoted the *very Words* of these Let-
 ters, lest I should be accused by those unac-
 quainted with the History of the present Ad-
 ministration, of charging our Ministers with
 Negligence too gross for any Men who under-
 take the Conduct of the Affairs of a Nation.
 I say Negligence, for is it possible that their
 inconceivable Ignorance could proceed from
 any thing but an utter Contempt, and a confirm-
 ed Neglect of our commercial Interest? The
 Cedula granted in 1729 ought, as we have
 seen, to have manifested to them, that the
 Practices of the *Guarda Costa's* were so far from
 being *Irregularities* in the Eyes of the *Spani-*
ards, as they are called in the first Letter, that
 they were the very Purposes for which they
 were fitted out, in Consequence of the *Spanish*
 Pretension to seize all Ships concerned in un-
 lawful Trade, and within the Limits prohibited
 by Laws and Treaties. The Insufficiency of
 that Cedula, and the Continuance of the same
 Practices

Practices ought likewise to have convinced them of this. But the Absurdity of their first Letter will appear more glaring, if we examine the second I have quoted: This will fully explain what they mean by the Irregularities of the *Guarda Costa's*; this will set their Ignorance and their Negligence in their full Light, and will demonstrate that they admitted the insolent Pretension of *Spain* as a Right which could not be disputed.

This Letter says, That the undue and indeed barbarous Methods of the Captors, *to put clandestinely Spanish Money or Goods on board British Ships, and to cajole the Crew to give false Evidence against their Captain,* ought to be prevented. The *Spaniards* are far from denying it, and our Ministers demand no more. They insist upon this, and are so unhappily ignorant that they insist upon what ought never to have been demanded: For it is evident, and I appeal to all Mankind for the Truth of it, that by this Demand, a Ship's *having Spanish Money or Goods on board, and sailing within the Limits* where the Crew are cajoled falsely to swear that she had sailed, are admitted to be sufficient Reasons for seizing the *British Vessels*. These are the Crimes, the Irregularity is in the Method of proving them. Why else should we demand that this clandestine Conveyance, or this false Evidence be prevented? Were not the *having Spanish Goods on board, and the sailing within Limits,* admitted to be Crimes, the putting *Spanish Money and Goods, or British*

ish

ish Money and Goods on board would be equally inoffensive; and the approaching to the Coast of *Cuba* or *Hispaniola* would be as innocent as coasting round *Jamaica*. It would be ridiculous to insist that the first should not be clandestinely conveyed on board, or that the Crew should not be cajoled to give false Evidence of the second. And Mr. *Keene's* Letter of the 21st November 1732, shews that he understood our Ministers as I do. The *Spaniards* still insisted on their Pretension; but by that Letter Mr. *Patinbo* was so well convinced of the *Insufficiency and Injustice of such proofs* to condemn our Ships as those of a little Spanish Money, or of *small Quantities* of the Produce of the King of *Spain's* Dominions in *America* being found on board them, that he had already given Orders on that Head. *Cargoes* of these Goods then were prohibited; and how should the Quantity be known without *visiting* all Ships suspected of carrying them? But the Answer of our Ministers will shew their Opinion beyond all Possibility of Dispute. In the Letter of *January* the 10th 1732-3, they say, " It is extremely to be wished, that the Regulations proposed might be settled, particularly *this* which Mr. *Patinbo* has owned to be most just and reasonable, that no Ship shall be condemned upon the idle Pretence of her happening to have a *small Quantity* of Snuff and a few Dollars on board, and therefore you will continue your Instances for that Purpose, and that some effectual Method may be used for keeping

ing

“ ing the *Guarda Costa's* within *due Bounds*,
 “ and to prevail with the Court of Spain *not to*
 “ *be so tenacious* of their old Laws, or jealous of
 “ facilitating an illicit Trade.” Such is the Opi-
 nion of our Ministers. But it is plain the Prac-
 tices, the Irregularities, the Disorders to be pre-
 vented and punished, were the *searching* our
 Ships and *condemning* them, for carrying *any*
Goods or sailing *in any Part* of those Seas. And
 these Practices were not committed by the
Guarda Costa's only, they were committed by
Spanish Governors and Judges likewise, and
 were commanded by the *Spanish* Ministers.

In *January 1732*, a Month after the last of
 these Letters, Mr. † *Keene* tells us, that he
 talked *in the most serious* Manner to Monsieur
Patinbo. Well; now that the Ruin of our Mer-
 chants has made him serious too, we may hope
 perhaps for some Effect from his Negotiations.
 He shewed Monsieur *Patinbo*, “ that the stale
 “ Excuse of not having *Autos*, or the clogging
 “ Clause, *if there has been no unlawful Com-*
 “ *merce*, were so many Evasions from doing us
 “ Justice, and this last was *dictating Chicanes*
 “ to those whose Interest in the Prizes made
 “ such an Encouragement unnecessary.”

Upon this serious and true Representation
 Monsieur *Patinbo* proposed to give a general
 Cedula that should order immediate Satisfac-
 tion for our Complaints, and that the *Spanish*
 Governors should give Testimonies of all that

† Mr. K. Lett. Jan. 28. O. S. 1732.

passed;

passed. And accordingly he gave a Cedula, containing, says Mr. Keene, "stronger and
 " more effectual Orders than I have yet been
 " able to procure. But I cannot get rid of the
 " clogging Clause, the Exemption of which
 " they say would give a Handle to the Gover-
 " nors themselves to follow their Inclination to
 " follow a contraband Trade."

What strong and effectual Orders Mr. Keene obtained by his serious Conversation, will appear by the Cedula itself. But why he appears so exalted with it notwithstanding the clogging Clause it contained, which, to use his own Words, "was *dictating Chicanes* to those
 " whose Interest in the Prizes made such an
 " Encouragement unnecessary," can only be guessed at by comparing the Date of his Letter, with the usual Time of the meeting of the Parliament in *England*.

The Cedula is from the King of *Spain* to his Governors † in *America*. He commands them not to suffer any of his Subjects to molest or *abuse* the *English* or any of their Ships that shall sail in these Seas, *so long as they keep in their proper Distances, and are not concerned in any illicit Trade*. This the *Spaniards* graciously proposed, and our Ministers joyfully accepted. But by the Acceptance of this very Cedula the Right of the *Spaniards* was again *admitted* by our Ministers in its full Force. If the Case of Exception had been only that of *actually* carrying on an illicit Trade, the *Spa-*

† January 10. 1732.

niards

niards would have been in the Right to make it, and we to admit it. But when they repeated their general Expression, and to that added, and we admitted, the Condition of *keeping due Distances*, we not only admitted the general Pretension of the *Spaniards*, but the particular Method by which they proposed to make that Pretension effectual, and by which they must inevitably render our Navigation and Trade in that Part of the World impracticable. It is self-evident, that the *Spaniards* might now, with the Appearance of Reason on their Side, ground a Demand of prescribing Limits to the *British* Navigation in the open Seas upon our Admittance of the Condition in this *Cedula*. And I dare appeal to any Man of Sense and Candor, whether the same Ministers that have admitted one could object to the other. All we obtained by this *Cedula* was, the being still amused with Orders, that the *English* should not be *abused*. It was perhaps imagined, that this might impose upon our Merchants who thought that they had been abused, when the *Spaniards* interrupted their Navigation, visited their Ships and confiscated their Effects; but *searching* and *confiscating* remained in the Opinion of the *Spaniards*, a *Right* not an *Abuse*. If our Merchants therefore had flattered themselves with any Advantage from this *Cedula*, they would soon have been convinced of their Error.

However the *Convention*, which I have already observed, was proposed by our Ministers

to remedy all these Grievances, was soon afterwards concluded. It is called a Declaration, and was signed the 8th of *February* 1732, by the *British* and *Spanish* Ministers at *Seville*. By this Declaration it is agreed, 'That whenever any *Spanish* Privateer shall have Leave to fit out for Sea, in order to prevent contraband Trade, pursuant to the Laws and Ordinances of the *Indies*, which have not been derogated from by the Treaties, they shall be obliged to give Security, in the Presence of the Governor of the Place from whence they shall sail, to be answerable for any Damages they may unjustly occasion; and in Default of sufficient Security the Governors themselves shall be answerable for whatever may happen.' And his *Britannick* Majesty promises to 'forbid and effectually to prevent his Ships of War from conveying or protecting, under any Pretence whatsoever, Ships carrying on an unlawful Trade on the Coasts of his *Catholick* Majesty.' This Declaration, being produced by the last Effort of our Ministers, deserves to be considered with Attention. And I shall therefore make some Observations upon it.

In the first Place it is very obvious, that the Stipulations here, general and weak as they are, concern only the Behaviour of the *Spaniards* in the Execution of their Pretension. It is therefore evident, that here the Pretension of the *Spaniards* is *once more admitted*; the only Restraint laid upon their *Guarda Costa's* is to find Security to be answerable for any Damages they

they may *unjustly* occasion; but the Principle which is to decide what is unjust and what not, is left unsettled, and therefore the pretended Right of the *Spaniards* is left the uncontested Rule of their Proceedings.

Secondly, the *Spaniards* give no Security against such personal Cruelties as they had exercised often on the Subjects of *Britain*; and in which the honest Merchants and Mariners had been treated like Pirates, by *Spaniards* who were themselves Pirates; nay, by Subjects of *Great Britain*, who would be hanged for former Piracies if they came home, and have been since employed by the *Spaniards* to commit these Depredations.

Thirdly, by this Declaration we solemnly admit of Regulations of which we know nothing. The Laws and Ordinances of the *Indies* we know not what they are, and the *Spaniards* may make them speak at any Time whatever Language serves their present Purpose. We have seen by the *Spanish Cédulas*, that these Laws pointed out certain Places, Limits and proper Distances for our Navigation, and we here expressly, ignorantly and meanly consent that the *Guarda Costa's* shall act according to these Laws.

Fourthly, These Laws are not only a Rule unknown to us, changeable at the Will of the *Spaniards*, and therefore purely arbitrary; but a Rule which it is against the Laws of Nations and the very Dictates of common Sense to admit. Because, although when a Subject of
another

another Nation trades with them, and is in their Country, he is subject no Doubt to all their domestick Regulations, unless exempted from any of them by particular Stipulations, and he ought to be so, yet those domestick Regulations shall not be extended to affect that Subject of another Country when he is not in theirs.

Fifthly, Not only our Ministers admitted this new, unjust, and in its Consequences ruinous, Pretension of the *Spaniards*; but they departed from the only Measure they ever seem'd inclinable to take, that might in any Degree appear favourable to the Subjects of *Great Britain*. To allow *Spanish* Men of War to cruize on our Merchant Men and interrupt our Navigation, was to give up scandalously the Interest and Honour of the Nation; yet to stipulate, that this should be done by Men of War, under the Commission of the King of *Spain*, instead of continuing to be done by Privateers, fitted out and commissioned by *Spanish* Governors in the *West-Indies*, might seem to carry some Regard to the good Treatment at least of *British* Merchants and Mariners concerned in this Navigation. This they did, or rather made a shew of doing: for they departed from it, as we have seen, on the first Difficulties made by the *Spanish* Minister, *Patinho*; and rather than not have something to amuse Mankind at home, and get over another Session of Parliament, they abandoned their fellow Subjects to the Cruelty and Avarice of Pirates worse than

than any of those who are confessedly such, and who suffer as such whenever they are taken. These are, and are reputed common Enemies, *Hostes humani generis*, all Nations run upon them, they have no Pretence of Authority or Right to exercise the Hostilities they commit, no *Asylum*, no Place of Refuge to retire to, when they have committed them; those, as real Pirates as these, are commissioned by Men somewhat worse than Pirates, and who yet, to the Shame of Government, derive from a Crowned Head the Authority by which they send out these Robbers and Assassins to infest the Seas.

Hard as these Terms are, they will justify themselves to every Man who compares the Violences and Cruelties committed by the *Guarda Costa's* under the Commissions given them by the *Spanish* Governors, with those which we find recorded in the Histories of any modern or antient Pyrates. Cruelties in short which can be parallel'd by nothing but what that barbarous Nation committed against the *Indians* when they conquered those Countries; whereof no other Testimony needs be sought than that of *Bartolomeo della Casa* and other *Spanish* Authors. These Cruelties were stop'd indeed when the whole Species of Natives in most of the first Settlements was almost destroy'd. After giving a Loose, for more than 40 Years, to the Inhumanity of the *Spanish* Nation, some Restraint was put upon it, and Charters in some Degree favourable to the *Indians*

Indians were granted. The *Indians* were left no longer to the Mercy of the *Spaniards*. But the Subjects of *Britain* are left by the Ministers of *Britain* doubly at Mercy, at the Mercy of the cruel Character, insolent Temper, and arbitrary Will of *Spanish* Governors who give the Commissions, and are to be Gainers by the Spoils, and of the Scum of all Nations to whom these Commissions are given, and whom they let loose to rob, to spoil, to murder, nay to torture.

We have seen that our Ministers were so far from asserting the Right of *Britain* against the Pretension of *Spain*, which they should have done in the plainest and strongest Terms, not only on the Avowal of such a Pretension by the *Spaniards*, but on the very first Suspicion that any such Pretension might be set up, that they continued weakly and tamely to submit to it. And we have observed that the *Spaniards* wanted no more. They had asserted their Pretension as a Consequence of the Prohibition of all Trade with their *American* Dominions, and they continued to act as if they had the Right to which they pretended.

The Declaration, we have seen, was signed in *February* 1732, and in the Demands made by the *Spanish* Commissaries at *Seville* in * *April* following, they formally insisted, that as the *British* Subjects, under Pretence of going

‘ to their own Colonies, carry on an unlawful
 ‘ Trade to the Ruin of the Flota’s, Galleons,
 ‘ and Register Ships, their Ships sailing through
 ‘ those Seas shall observe the Course they ought
 ‘ to steer to avoid Hostilities.’ But to this De-
 mand we gave no Answer, and they were far
 from requiring any ; for whilst they were artful-
 ly endeavouring to convert this pretension in-
 to a Right, every Thing that had the Air of
 Acquiescence afforded Arguments for their pur-
 pose.

We have already observed likewise, that the
 Treaties made by our Ministers were designed
 only to amuse the Nation ; and certain it is,
 they had no other Effect ; they determined no
 Dispute ; they concluded no Negotiation ; and
 the Declaration we have here quoted resembled
 in this respect the rest of *their* Treaties. So early
 as in the Month of *November* * following it,
 we find Mr. *Keene* again applying to the *Spa-
 nish* Ministers for some Regulations to prevent
 the unjust Captures of our Ships for the future.
 A new Session approached, a new Treaty
 therefore must be put upon the Anvil, and
 the Negotiation must relound into *Britain*,
 to drown the Cries of the Merchants, and to
 deafen the Ears of their Representatives. Mr.
Keene accordingly acquaints our Ministers ‘ that
 ‘ Monsieur *Patinho* had owned the Insuffici-
 ‘ ency of *small* Quantities of *Spanish* Goods to
 ‘ condemn our Ships ; but that however he had

* Mr. K. Lett. Nov. 19. 1732.

‘ insisted

insisted on something more clear and positive, and had proposed to Mons. Patinho, to send for a Cedula issued by the Queen Mother soon after the Treaty of 1670, whereby the *Guarda Costa's* were kept within proper Limits, and prevented from interrupting the lawful Commerce of Nations in Amity with Spain; and that they should together adapt it to the present Circumstances. Our Ministers in the Letter of *January 10, 1732-3*, part of which has been already quoted, tell Mr. Keene that he is not to be discouraged by Difficulties from pushing this Matter as far as he can, and from endeavouring at least to get the old Cedula revived, *which he mentions to have been issued for this purpose about the Year 1670, if he thinks that would be sufficient*; and they add, 'unless something of this Kind be done, it will be impossible to put an End to the Violence and Rapine exercised by the *Guarda Costa's*.'

It is very obvious from these Letters that our Ministers, as well as Mr. Keene, were utterly in the dark concerning the Cedula issued about the Year 1670. And it is not easy to determine which was greater, the Absurdity of proposing, and even labouring to obtain a Cedula, of the Contents of which they were totally ignorant, or that Negligence, in what so much concerned the Trade of their Country, from which alone could proceed their Ignorance of this Cedula, which had been transmitted to them by Admiral *Stuart*, so long before

before as the Month of *April 1732**. The Cedula is no other than that which we have mentioned to have been issued by the Queen Mother in 1674. and it is in pursuance of it that every *Spanish Guarda Costa* in the *Indies* has been and is fitted out. But the mean Admissions of our Ministers had already so well adapted it to the present Circumstances, that the *Spanish* Governors had presumed to give to their Corsairs a farther power to take *all the Embarcations of Strangers* they should find in or about *their Ports and Rivers*.

In the same Letter of the 10th of *January* we find our Ministers of a sudden alarmed with the following Expression in the Cedula for Restitution of the Ship *Woolball*, *That the Ship was not taken in any suspected Course of Navigation*. This they desire to have explained, 'because it carries an Implication that may prove of dangerous Consequence to the *British Trade in America*.' Could it be credited, if we had not their own Authority for it, that notwithstanding the *Spanish* Cedula, the Demands of their Commissaries, and the Accounts sent home from the *Indies*, our Ministers were till this Time in finding out, what had been the Subject upon which they had negotiated so many Years? Yet so it is. And thus it appears that to this Time, that is to the Year 1733. the Right of *Great Britain*, and indeed of Mankind, was never once asser-

* R. Adm. St. Lett. to Mr. Burchet, 28 April 1732.

ted by our Ministers against the pretensions of the *Spaniards*; but their pretensions were, in every Treaty or A^ct that passed between us, fortified by the unaccountable policy of our Ministers, as the Depredations made in Consequence of them were suffered, and in some sort allowed by the Instructions, whereby our Men of War were restrained from protecting our Trade, or making Reprisals on the *Spaniards*.

It cannot be wonder'd at, therefore, if from that time forward the *Spaniards* continued to exercise the same Tyranny in those Seas. Upon several particular Occasions indeed Representations were made from hence; but the same Fallacy being suffered to continue, no Reparation was or could be obtained. The Fallacy I mean is this: The *Spaniards* justified their proceedings by objecting illicit Trade, and by begging the Question, while they supposed that they had a Right of searching and taking our Ships at Sea, in order to prevent this illicit Trade. We on the other hand never had the Sense or Courage, at the same time that we owned their Right to prevent this Trade as far as they could on their own Coasts, in their own Roads and Harbours, according to the Tenor of Treaties, and by Restraints on their own Subjects, according to the Laws and Ordinances that had been or should be made by them; we never had the Courage, I say, to deny peremptorily that they had any Right, even in order to prevent illicit Trade, or under any other pretence whatsoever to at-
tack

tack the Ships of *Britain*, or interrupt their Navigation, at Sea. Such an express Denial had reduced the Dispute to a short Issue, had taken away all Equivocation, and saved our laborious Ministers a great deal of useless and silly Trouble. For want of it nothing was done nor could be done towards removing this Grievance. Our Ministers continued to be amused by the *Spaniards*, and our Nation to be bantered by our Ministers.

When I object to the Impropriety of the Means used by the *Spaniards* to prevent illicit Trade, and argue for confining them to such as are prescribed and immediately implied by the Treaty of 1670, I have even the Opinion of the *Spaniards* themselves on my Side. I have at least the Opinion of the Governor of *Porto Rico**, who says in his Letter to the King of *Spain*, 'that he cannot observe his Orders, unless his Majesty be pleased to declare, whether the *English* and *Dutch* Vessels, the Privateers meet with not trading on the Coasts of those windward Islands, nor at Anchor there, can be deemed Prizes, whether or not they are loaded with suspected Cargoes. By reason that the Seas near these Islands, being the Rout of these Nations from one Colony to another; it happens, they are obliged to stop on these Coasts, either on account of bad Weather, or losing their Way, and in pursuing their Voyage they are taken, and in

* Gov. *Puerto Rico* Lett. to *Richard Lestock*, July 14. 1732.

' their Prosecution render'd doubtful, the Go-
 ' vernor being pressed thereunto by his Majes-
 ' ty's repeated Orders for encouraging Cruizers
 ' against Pyrates and unlawful Trade; and as
 ' to what concerns the *English*, to remit their
 ' Causes to the supreme Court of the *Indies*,
 ' which is a known Prejudice to the Prisoners
 ' themselves, their Vessels and Cargoes being
 ' deposited in such Cases till the Royal Deter-
 ' mination; to which may be added that some-
 ' times no Prisoners are brought in, and in
 ' many others the Cargoes consist in Species
 ' not vendible in these Islands, particularly on
 ' the Coasts. And the Governor of *Cartha-*
 ' *gena* in his Letter to Admiral *Stuart* †, says,
 ' I neither have nor will grant any Commis-
 ' sions for cruising; for my Mind hath always
 ' directed me to be jealous of introducing
 ' them, appointing sufficient Guards by Land
 ' and not by Sea, in Consideration of the Con-
 ' sequences arising from such Proceedings.

To confirm the Opinion of the Governor of
Carthagena, and to shew that the true Way
 of preventing illicite Trade in these Parts is to
 appoint sufficient Guards by Land, in order to
 restrain the *Spaniards* from it, which the King
 of *Spain* may lawfully do, instead of sending
 out Privateers, under pretence of preventing
 this Trade, to interrupt the Navigation of o-
 ther Nations, which neither he, nor any Prince
 on Earth has a Right of doing; it may be proper

to quote a Letter of Admiral *Stuart**, wherein he gives an Account of a *Guarda Costa*, ' who ' had stopt and seized an *English* Vessel, but ' had paid the full Value both of the Sloop ' and of the Cargo.' This Method of supplying a *Spanish* Colony with *European* Goods without the Help of the *Flotas*, Register Ships, or *Galleons*, and of forcing the *British* Ships to carry on the very Trade of which the King of *Spain* complains, or Methods something like it, are not perhaps entirely new. But it must be owned that this *Guarda Costa*, and other *Spaniards* who take some such clandestine Methods of supplying themselves with *European* Goods, do not trade with the same Advantage that the *Spanish* Governors in the *West-Indies* generally do. The former pay, these never pay for the Merchandizes they introduce into the King of *Spain's* Colonies. They receive them neither in *Galleons* nor Register Ships; but they supply their People so plentifully by their Depredations, that according to late Accounts, the Trade from *Old Spain* can no longer be carried on to Advantage. Admiral *Stuart* is therefore justly surprised at the Conduct of this conscientious *Guarda Costa*; and yet I believe the Mariners, whose Vessel and Cargo the *Spaniard* paid for, would have thought themselves but little obliged to him, if the Boat which he gave them had, notwithstanding his Cautions to them to avoid

* Lett. to Mr. Burchett, Aug. 2. 1731.

his Countrymen, been afterwards met and confiscated by another *Guarda Costa*, for stopping on the *Spanish Coast*, or having on board the very Pieces of Eight which the first *Guarda Costa* had forced on them.

The Sum of all this is; if there be an illicit Trade carried on, the King of *Spain's* Subjects are the Tempters, the Subjects of other Nations are but the tempted. To what arbitrary Power then does not the Catholick King pretend, when he exercises a Power, and severely too, without the Authority of any Treaty, over those whom he can have no lawful Power over, out of his Dominions, but what some Treaty gives him, and when he might more effectually stop the illicit Trade he complains of, by exercising the lawful Power which he has over his own Subjects? He may deal with them according to the full Extent of his Prerogative; he must deal with other Nations according to the Tenor of Treaties, and assume no more power over them than what the Treaties, to which they have consented, give him. The Losses, or the Inconveniencies, which he cannot prevent by keeping within these Rules, would be small; but if they were more considerable, they would not justify him for departing from Rules that the Laws of Nations, and the common Consent as well as Interest of Mankind, render sacred; these Principles are so plain and so certain, that I believe no Court, except that of *Spain*, would presume to act in Defiance of them; and I have

have the Sense of every Man both at Home and Abroad for me, when I affirm, that no Ministers of any Court except ours would suffer that of *Spain* to act in that manner. But I return to the Deduction I had begun.

Our Ministers themselves were at last made sensible of the miserable Situation into which their Ignorance or Connivance had reduced us : But they continued to complain of the *Excesses* of the *Guarda Costa's* ; they were so ignorant as to mention the Regulations about *visiting* in the Treaty 1667, as extending to our Commerce in *America*, as well as in *Europe* : They demanded that *some Moderation* might be used by the *Spaniards* in the Exercise of their injurious Pretension so long submitted to, and they thought of *Compounding* to have it *softened* : They would even have *left this Composition*, in a case where all Composition must be deemed scandalous as well as ruinous, to the *Option* of *Spain* ; for they * desired ' that the *Guarda Costa's* Commissions (which are given by the *Spanish* Governors) should *either* be absolutely *recalled*, or so *limited* as not to leave ' them at Liberty to act in this Manner. ' That is in Effect they desired, that *at least somewhere* the *British* Ships might sail without Danger, that *some Limits* might be given, *some small Quantities* of *American* Goods licensed, *some Trade* in *America* allowed, and that a *Spanish Cedula* might (instead of a Convoy) secure the

* D. of N. Lett. Dec. 19. 1737.

British Ships in their Passage from *Britain* to her Colonies. And what is this but to acknowledge an absolute Dominion in the Crown of *Spain* over the *American* Seas? The King of *Great Britain* must have submitted in this Case to such an Indignity in the *West Indies*, as private Merchants, *British* and *Dutch*, would never submit to in the *East Indies*, when the *Portuguese* above a Century ago pretended to suffer no Navigation there except under their Passports.

Yet thus our Ministers proceeded, and which is almost incredible, after they had *confessed* that they knew the *Spanish* Complaint of illicit Trade was an evasive Answer only; and after that they had *lamented*, that in all the *Spanish* Cédulas, there was no getting rid of that clogging Clause. A clogging Clause indeed it had proved in the Reparation justly due to our Merchants: A Clause, which our Ministers might have perceived (as every Body else did) had rendered all the Cédulas obtained, in particular Cases, ineffectual, and must continue to do so, as long as the Point, upon which the whole Dispute turned, remained undecided.

But this is not all; something more monstrous remains to be told. The *Expedients* they proposed were pitiful and mean, dishonourable and destructive. But the *Admission* they made by their Declaration in 1732, was worse. No Enemy of *Great Britain* would have urged any Thing more to our Disadvantage, in the Course of such a Negotiation.

For

For in that Declaration, (as if they meant to furnish new Reasons to the *Spanish* Minister to refuse, what they lamented they could not obtain) they not only admitted formally that a most notorious illicit Trade was carried on by the *British* Subjects in *America*, but that these Traders were protected in this Breach of Treaty by the *British* Ships of War. Such an Admission could not have been made at any Time, nor in any Manner, by Ministers who knew what they were about, and who had a national End in their Negotiation; or if it had slipped inadvertently from them, yet as the supposed Protection of *British* Ships of War to *British* Smugglers could not be more injurious to the *Spaniards* than their Pretension is to the *British* fair Trader, and to the Freedom of our Navigation, the Prohibition of the First ought to have been attended at least by a Disavowal of the Second. Nothing of this Nature was done. Our Ministers gave up the Cause of their Country, often; they asserted it, never.

However, at last, in *January* 1737-8, they perceived or seemed to perceive the whole Ridicule of the *Spanish* Complaint, as it was urged for a Reason to support the Pretensions of that Crown. They complained then*, that 'the preventing the *British* Subjects from carrying on an illicit Trade, was made a Sort of Condition of the King of *Spain's* not suffer-

Lett. D. of N. *January* 1737-8.

' our Ships, acting by his own Commissions, to
 ' seize, plunder and detain *British* Ships, which
 ' had not been concerned in carrying on any
 ' illicit Commerce.' Now to make that a Con-
 dition of not interrupting our Navigation, was
 to use this Nation as the most impotent State
 never was used by the most powerful. To
 demand it at all was not less ridiculous, than
 if we should demand of the Court of *France*
 to hinder the Smugglers from infesting our
 Coast. But to insist upon it as the Court of
Spain had done, ought to have convinced our
 Ministers long before, of what they were at
 last forced to own §, ' That they have little
 ' Hopes of engaging the *Spaniards* to set aside
 ' the Methods that have been hitherto followed
 ' in Consequence of the original Laws and In-
 stitutions of the *Indies*.'

In this Manner was *Britain*, who had been
 lately one of the most respected Powers in
Europe, negotiated by her Ministers into a
 Despair of recovering, from one of the weak-
 est Powers, the plainest and most essential of
 her Rights. And to this Condition were Af-
 fairs reduced, when our Merchants (wearied
 out with continued Vexations, and almost
 ruined by their Sufferings) applied once more
 to Parliament, repeated once more what they
 had explained in 1728 and in 1730, and in-
 forced the Whole by producing a long and
 black Catalogue of their Losses.

Let us now see what has been the Effect of this Application.

The Parliament once more voted *an Address to his Majesty, to use his Royal Endeavours with his Catholick Majesty to obtain effectual Relief for his injured Subjects; and to convince the Court of *Spain*, that his Majesty can *no longer* suffer such constant and repeated Insults to be carried on, to the Dishonour of his Crown, and to the Ruin of his trading Subjects. To this Address his Majesty † was graciously pleased to answer, 'I am fully sensible of the many and unwarrantable Depredations committed by the *Spaniards*, and you may be assured I will make Use of the most proper and effectual Means that are in my Power, to procure Justice and Satisfaction to my injured Subjects, and for the future Security of their Trade and Navigation.'

The House of Lords having likewise taken the Affair into their Consideration, presented an Address to his Majesty, more explicit, but to the same Effect, and received an Answer to the same Purpose.

The Pretension of the *Spaniards* was now become not only too plain to be winked at any longer, but was grown up into a supposed Right, which they asserted as directly as they could assert any the most undisputed Right belonging to their Crown or Nation. The *Span-*

March 30. 1738.
April 7. 1738.

ish Minister, Monsieur *De La Quadra*, in his Answer † to a Memorial sent from *England* with a Multitude of Cases of Ships lately taken by *Guarda Costa's*, openly asserted, ' that the only Navigation the *British* Subjects can claim, in the *West-Indies*, is that to their own Colonies, while they steer a due Course, and that their Ships are liable to Seizure and Confiscation, if it can be proved that they have changed their Rout without Necessity.' This Pretension, the Child of our compliant Ministers, appeared now so terrible in its full Growth, that it frightened its Parents; In the Draught of a Letter * laid before Parliament, as intended to be sent to the *Spanish* Minister, our Ministers complained of it as ' a most extraordinary and inadmissible Demand, not to be supported even on the Supposition of the Sovereignty of *Spain* in the *American* Seas. But such a Dominion, they said, was what the King of *England's* Predecessors never knew, and what he could never submit to.'

When the Matter was brought to this Issue; when the concurrent Sense of the King, the Parliament, and the Nation, was declared against the Pretension of the *Spanish* Court, so long connived at, and favoured by ours, and in Truth against the very Principle and Method of Negotiation, which our Ministers had hitherto pursued, a powerful Fleet was fitted out; our first Minister declared that even he should

† February 21. 1738. O. S.

* Draught sent March 17. 1737-8.

be ashamed to negotiate any longer; and the People in general believed, that the Spirit of the Nation would recover, what the Pusillanimity of the Administration had lost. How could they believe otherwise? The plainest and the strongest Instructions were laid down for the Conduct of our Ministers in the Addresses of the two Houses, and in his Majesty's Answers. Who could believe after all this, that they would venture to resume in any Degree, their former Conduct, and dare to amuse and banter *Great Britain* once more? Yet this they have ventured, this they have dared, as will appear undeniably by the Sequel of the Deduction we are to make. Nay, the Event has made it plain, that the first Minister resolved to resume his former Method of Conduct in Opposition to the Addresses of the two Houses, and the Promises of his Master, even at the very Time that these Addresses and Promises were made. What else could he mean by giving a Negative in the same Session of Parliament to the Bill designed to take Place in Case of a War, for the Encouragement of the *British* Seamen? What else could he mean, by sending a Fleet into the *Mediterranean*, where it must be, as it was, useless, and therefore ridiculous, instead of sending it into the *West-Indies*, where it might have driven the *Guarda Costa's* into their Ports; have protected our Trade; have taught the *Spaniards* once more to respect the *British* Flag, and have secured the Success of such a Negotiation

as the Parliament desired, the King promised, the Honour and Interest of the Nation demanded? These ugly Symptoms gave early Suspicion to many Persons, that Measures would be altered rather in Appearance than Reality; and that the same Projects of Amusement and Banter would be continued. But the Generality could not persuade themselves that the Ministers would neglect an Opportunity of retrieving their former Errors by exerting an honest Vigour in the Cause of their Country, when the Men who usually opposed them, had been the first to strengthen their Hands, and had pawned themselves to support them in it. They imagined that the private Interest of the Ministry would coincide upon this Occasion with the national Interest, and flattered themselves therefore that the latter might be pursued. They saw that in pushing a Measure which the whole Nation desired, the Ministers ran no Risque, who they thought might run some in continuing, after all that had passed, to act against it; but the Ministers thought otherwise, and we have seen hitherto that they judged right. They depended on a Reserve they had often tried, and knew that the Court of *Rome* is not the only Tribunal in the World where Absolutions are to be had for Crimes, that it would not be so easy to obtain the Permission of committing. Those who had opposed their Measures, and foretold the Consequences of them, were willing to sacrifice their Prejudices to the Publick, and to

assist

assist them to recover the Game they had lost abroad, as well as to acquire, in one Instance at least, the Reputation of good Government at home: But the Ministers would sacrifice nothing, not even their Blunders to the Publick. Whatever Party they took, they thought their Power secure, and this great Point being settled in their Minds, they resolved to gratify their Humour and indulge their Habits, against the Interest, the Honour, and the unanimous Bent of the Nation. Let not this be called Declamation, or Invective. It is a true Representation of Facts; what follows will prove it to be so. The Summer was spent in Inaction on our Part, for the *Spaniards* continued their Depredations with great Activity, and the Winter has opened with the News that a Convention had been signed between the Crowns of *Great Britain* and *Spain*. The Contents were with great Industry concealed; it only transpired that some Difficulties made by the Court of *Spain* retarded the Exchange of the Ratifications, and it was reported, that these Difficulties related only to the Affairs of the *South Sea Company*, at that Time said to be included in the Convention. The Parliament was by Proclamation appointed to meet; but when the appointed Day came, it was further prorogued for a Fortnight, that the Expedient found for adjusting the Difficulties which had arisen might be carried into Execution, and the Convention might be ratified, before the Opinion of the Lords and of the

the Representatives of the People concerning it, could be taken.

When the Parliament did meet, the Convention remained still a Secret. His Majesty's Speech was indeed supposed to contain an exact Account of it, and all that was to be expected from it, and Mankind was surpris'd to find no more. Limits and other Restraints on our Possessions, Trade and Navigation had been talk'd of: And every Body expected that some Expedient at least would have been found to curb the Insolence of the *Guarda Costa's*. Those who thought the worst of our Ministers expected this. But there appear'd no such Thing. The Commissaries appointed by the Treaty of *Seville*, had rendered a Reference to Commissaries completely ridiculous. No Matter, a Reference was made again, but it was made this Time to Plenipotentiaries, and the boasted essential Difference between these and the former was, that those were named by Commission, but these by the Convention; which was by the Way, in point of Form, the less regular Method of the two; nor is it easy to conceive why this Method was taken, unless we suppose that the Minister who had laid the Foundations of much dirty Work, by the Convention, was resolv'd to fix the Execution of it, by the same Convention signed, sealed and ratified, in Hands that were fittest for it, the Hands of two of his Creatures, little Men, who had fill'd the lowest Forms of Business in that very Country; who were quite unfit to im-

pose

pose on the Pride and Obstinacy of the *Spanish* Court, or to conduct a Negotiation of so great Importance : The first Men in *Britain* would have been but equal to it.

As every Body expected that the insolent Depredations of the *Guarda Costa's* would be immediately checked, so Nobody I believe expected that any Convention or Treaty would be signed; in which there was not sufficient, nor even plausible Reparation of past Injuries, nor any effectual nor seeming Provision stipulated against further Injuries of the same Kind. Yet thus it was. A paltry Sum of Money was promised in Satisfaction of past Injuries; our Security against future Injuries was referred to a subsequent Negotiation ; and during the Term of eight Months given for this Negotiation, our Merchants were abandoned to the Mercy of the *Spaniards*, that is, they were left to be stopped, rummaged and robbed as they had been for so many Years before. This appeared bad enough at a first View ; but it appeared still worse at a second, when this Reflection presented itself, that by consenting to treat on the *Spanish* Pretension, instead of asserting peremptorily our Right in Opposition to it; and by leaving our Merchants exposed to the same Depredations during this Treaty, we fell again into the same Fault that the Minister had persisted in, before the Addresses of Parliament and his Majesty's Answer : Whereas it was against this very Fault that we expected to be secured by these Proceedings, or

else we must have expected nothing from them.

In this Light the Convention appeared to every Man, who supposed it to be, what his Majesty in his Speech said it was, and what it afterwards proved. The modest Father of this Child continued however to own it, and to praise it. He publicly declared, *That he had never read so good a Treaty; that every favourite Phrase was contained in it; that the Captures made by Spain were confessed to be unlawful; and that there was not a Grievance to be named that was not to be redressed.* Yet he still delayed to make it publick, or even to lay it before the Parliament, and in the mean time prevailed to have every Paper refused that was thought necessary to set it in a full and clear Light; some because they related to Affairs not yet concluded; others because the Affairs to which they related were already concluded; some because, as he asserted, they were not necessary to give Information; others because they could be of no use to those who would approve the Convention; and others again because they could only be of use in case the Convention was condemned.

At last this favourite Piece was produced and published, and the Person, who a little before had taken all the Honour of it to himself, began now to assume but a Share of it, tho' he declared still that it was a good Treaty, and publicly assured the Gentlemen who thought otherwise, that they should be left at full

Liberty

Liberty to proceed on the Consideration of it in their own. It appeared very soon afterwards that some Papers were necessary to give Information; that the Convention, as it was produced and published, ought not to be considered separate from an Act which had not been produced nor published; but was the Condition without which the King of *Spain* would not have consented to conclude and execute the Convention. When this Act came unexpectedly to Light, it likewise appeared, that some Papers, altho' included in the Question, to which a Negative had been given, would be of use to those who designed to approve the Convention; and therefore *Extracts* of Letters were laid before the Parliament, together with the Declaration signed by Monsieur de la *Quadra* relating to the *South-Sea* Company. Letters relating to the same Subject being included among the Papers, afterwards called for from the *South-Sea* Company, and they presenting *Copies* of them, it then appeared, that tho' *Extracts* might serve to get the Convention approved, *Copies* endangered its Condemnation.

Altho' I would not be too minute in my Observations, nor descend into any unnecessary Detail, yet I thought this little tricking Management, deserved some Notice. No Artifice indeed was neglected, and all that could be done to conceal, to disguise, to palliate, and to divert was little enough; every Day brought new Objections to light, and raised a new Spi-

rit against the Convention. The Reference of our Rights was thought shameful, that of our Limits dangerous ; the Sum of Money promised by *Spain* was thought inconsiderable, and the sacrificing the *South-Sea* Company was lookt upon as a most ignominious Price for a most disadvantageous Treaty.

The Friends of the Convention, or rather the Creatures of the Minister (for Friends of the Convention even among these I think there are none) found that the more it was considered, the less it was approved ; and that altho' they then prevented it from being fully exposed, yet they could not hinder it from being universally condemned. How indeed could they, since no Man could recollect what he had expected from it, and what the Friends of it had confidently asserted to be in it, without feeling the strongest Disappointment, and the strongest Indignation ? The Gentlemen within Doors who had disapproved of the Conduct which had brought our Rights into Dispute, and of this Measure which was only pretended to be excused by the Situation in which we found ourselves from that Conduct, expressed no Impatience to condemn the Convention, before it had been duly considered ; and were desirous to proceed in the most solemn and deliberate Parliamentary Manner. They were desirous to examine it Article by Article ; and to set the Whole and every Part of it in that full Light in which the Fautors of it boasted that they desired it might be considered. But

as soon as the Light began to increase, and the Turpitude of the Brat began to strike every Eye, the Father of it began to think it was time to remove this monstrous Production of Ignorance and Self-conceit, of narrow Views and narrower Sentiments, as soon as possible, and as far as possible out of Sight. He therefore, who had declared that such as were alarmed at the Convention, might proceed in their own Way to the Examination of it, now thought it necessary that they should follow his. He named the Day for considering it, and insinuated that the same Day should decide it. A Matter of this Moment to the Honour and Interest of the Nation, was to be huddled up in one Debate; a Matter thus complicated was to be decided in less Time than would have been sufficient for a due Examination of any one of the Parts. But this was rendered impracticable. The Merchants, the Planters, the principal trading Towns, and the City of *London*, presented Petitions, representing the insecure Condition our Trade and Navigation was left in, the dangerous Consequences of not asserting our Rights, and the Insolence of the *Spaniards*, who in the very last Summer had insulted us with fresh Depredations. The Merchants desired to be heard by their Counsel, this was refused both to them, and to the Owners of an *English* Vessel, the Master of which was at that Time a Prisoner in *Spain*. The Merchants were admitted however to be heard by themselves, and Captain *Vaughan*, who

who had not otherwise been heard at all, arrived just Time enough from his *Spanish* Jail, to inform the House of Commons, that the very *Spaniards* made a Jest of our Submission, and in Contempt called our Mariners the *Gal-linas de la Mar*, the *Hens of the Sea*, and that even the Tradesmen amongst them deserted their Trades to go to Sea, to hunt the *English*.

The Merchants having the first Day with great Energy represented their Distress and their Danger, the second Day was spent in examining, as far as the Time would permit, into the short Account, on the Authority of which it was pretended that the Sum promised by *Spain* had been accepted. But the Particulars of the Treaty were not to be entered into separately. The Question to approve or disapprove the whole Convention was to be decided without Loss of Time, and in a summary Manner. A general Address to the Crown was therefore proposed the very next Day. Three such Addresses had been already voted on the like Occasions; gracious Answers had been returned to them all, and still the Grievance continued, nay strengthened upon the Nation. But something was to be done, and what else could be done? An explicit Approbation of this glorious *Convention* could not be expected from the most determined; a separate Examination of every Article it would not bear; nay an Address confined to the *Convention* itself, an Address that specifically and directly approved the *Convention* might have miscarried;

ed; or if it had been carried, they who had voted for it would have been left without any Colour to excuse themselves, and to amuse or puzzle Mankind. Thanks to the Crown therefore were the thin Leaf of Gold used to gild this nauseous Pill. Hopes and Assurances were added that our Plenipotentiaries would obtain what in the Address of 1737-8, had been pointed out to our Ministers to insist upon, and what they were so far from having insisted upon, that it did not appear, they had once demanded it. A Compliment to the Crown rather than the Merits of the *Convention*, became in this Manner the Subject of Debate, and though there could be no Room for such a Compliment on this Occasion, unless the Convention was a good Convention, yet even they who thought it bad one, caught at this Expedient of complimenting the Minister under the Vail of a Compliment to the Crown. The House of Lords expressed their *Dependence*, that in the future Treaty the utmost Regard would be had to the Rights of his Majesty's Crown and Subjects. The Commons declared their *Reliance*, that the greatest Regard would be had to our Rights and Possessions. On whom did the one *depend*; on whom did the other *rely*? on the King. But they had always the same Dependence and Reliance on his Majesty. They had expressed it the Year before, when they addressed to have the Negotiation put on the true Foot, and brought to a short Issue by asserting our Right

to

to a free Navigation, and rejecting the impudent Pretension of the *Spaniards* to stop and search our Ships. What had happened since that Time to give Occasion of renewing this Compliment to the Crown ? Had we asserted this Right ? Had the *Spaniards* departed from this Pretension ? There was no Ground to affirm the first ; and as to the last, it was notorious, that the *Spaniards* maintained the same Pretension both in Word and Action, and that we had not only once more fortified it, as we had done for fourteen Years together, but much more strongly than ever, by admitting it as a Matter of Treaty, after the Sense of the Nation, of the Parliament, and even of the Crown, had been declared against it ; for so they had been : And the Addresses of the two Houses, and the King's Answers in the precedent Session meant this, or they meant Nothing. Who had presumed to act against this declared Sense ? Who had presumed to bring a Treaty before the same Parliament that contradicted this Sense, and was built on Principles repugnant to it, or else was designed only to gain Time, and to continue with great Dishonour and Loss to the Nation the same frivolous Negotiations, rather than interrupt the Ease, ruffle the Mind, or endanger the Power of the Minister ? It was the Minister himself, it was he who claimed to himself the Honour of this Convention, and who had the Front to make the Panegyrick of it, but a few Days before he knew it was to appear. Was the *Dependance* ? Was the

the Reliance of the Parliament placed on him? Could it be expected that he who had acted like the Tool of *Spain*, after the Passages of the last Year, would act like a Minister of *Great Britain* this Year? Could it be expected that the Addresses of this Year should be more regarded by him, than those of the last Year had been? And if they were not more regarded by him, what Dependance, what Reliance did Experience teach us that we ought to have? What Service could the Nation expect, on this Occasion at least, from a Man who had avowed on the same Occasion one of the most disadvantageous Treaties that ever was made, and who had by his Concessions to *Spain*, put it out of his Power even to speak the Language that a *British* Minister ought to hold? The scandalous Concessions that have been made to *Spain* in the great Point, that of her Pretension to interrupt the absolute and independent Freedom of our Navigation, may appear sufficiently by the Deduction already made. But there are other Particulars into which it is proper to descend, because they are closely connected with this, and necessary to shew how *Great Britain* is insulted Abroad, and amused at Home in every Instance, the smallest as well as the greatest.

The *Spaniards* had taken the Alarm upon a *British* Colony being settled in *Georgia*, a Tract of Land lying between the Rivers *Savannah* and *Allatamaha*, to the South of *Carolina*. A Fort had formerly been built by

us on this last River, on a Representation from the Board of Trade shewing the Importance of securing our Possession of it. The *Spanish* Minister then in *England* had indeed complained, but our Ministers in those Days insisted, and the *Spaniards* submitted. The Commander of the Fort however some Years after, without any Orders for so doing, deserted it, but his Conduct was disapproved, and Possession was again commanded to be taken.

On the Occasion of Mr. Oglethorpe's Return to *Georgia* in 1736, to establish the Settlement there, the *Spaniards* once more complained * of the Fort upon the *Allatamaha*, and of some Hostilities said to be committed by the People of *Georgia* against *Indians* under the Protection of the *Spaniards*. They went farther, they took this Opportunity of making a Demand not only of all *Georgia*, but of *Carolina* likewise, except *Charles-Town*, our Possession of which they were graciously pleased to tolerate. Our Ministers were so far from insisting, as had formerly been done, on our Right even to the Fort complained of, that when whole Provinces were thus demanded, they † humbly offered to refer the Matter to Commissioners, although this was to admit, that an indisputable Right was liable to dispute, and to give up a Point on which former Ministers had set the present Minister an Example of prevailing by persisting. The *Spanish* Court

* Lett. 21 September 1736.
2 October

† September 3. 1737.

affected to delay their Answer. At last * they informed our Ministers that the King of *Spain* had no Objection to the King of *England's* sending Commissaries to *Madrid* to adjust this Dispute, provided that the Conferences should not continue longer than six Months after the Nomination of the Commissaries; and that during that Time neither Party should occupy the Territories and new Forts built since the Beginning of the last Century, which Forts were to be demolished before the Conferences began. To this last our Ministers justly replied, that it was demanding from the King, before the Commissaries met, all that could be demanded of him after they had decided against him. A convincing Proof, by the Way, that they themselves understood our Right to whole Provinces, not the Question concerning their Limits only, to be referred to the Commissaries. However, being always willing to negotiate, and never knowing how, nor feeling when they ought to decide, though they could not comply with this haughty Demand of *Spain*, they offered to suspend the settling or fortifying the Colonies in Dispute, and on this Condition the King of *Spain* agreed that we might send Commissaries to his sublime Port, with Power to determine within six Months.

It was pretended, that by the Treaty of *Utrecht*, to which the Defects even of this Convention were to be ascribed, we had sti-

* March 27
April 7 1738.

pulated that *our* Limits with the *Spaniards* should be settled; but the 8th Article of that Treaty related manifestly, and even in the Opinion of our Ministers, to the Encroachments of the *French*. To this Article the Treaty of 1721 referred. But in the Treaty of *Seville* the adjusting Limits was inserted, among other Disputes, in the Article appointing *British* and *Spanish* Commissaries. So that among other Advantages which the Treaty of *Utrecht* procured, and laid the Foundations of procuring, and which the present Ministers, who have been so loud in railing at that Treaty, have scandalously given up, and neglected to improve, this may be reckoned. The Treaty of *Utrecht* opened very wisely a Dispute concerning the Encroachments of the *French* on the *Spanish* Colonies. The Treaty of *Seville* opened very foolishly a Dispute between the *Spaniards* and us concerning the Limits of *our own* Colonies. That the Dispute concerning the Limits of our Colonies was thus first opened appears farther from hence, that our Ministers did not exactly know what Limits would be disputed; for in the Instructions given to the Commissaries sent to *Seville*, they use this remarkable Expression, 'As to any Disputes that *may be* subsisting, or that *may* arise concerning the Limits of the respective Dominions in *America*, which so far as has yet been represented to us *may* relate to those of *South Carolina*, &c. the Commissioners of Trade will furnish you with Accounts.' So that

that the Article of the Treaty of *Seville* was not inserted to adjust *old Disputes* only, but to open all our Colonies to the Claims of *Spain*, and all our Rights to the Discussion of Commissaries.

I cannot help observing likewise in this Place, that one of the Arguments in Favour of the Convention, was the Shortness of the Term, the Term of eight Months in which our Plenipotentiaries were to finish their Negotiation. This was sounded very high as a considerable Point gained by our Ministers, and it ought to be sounded as high for a gross and most notorious Misrepresentation, since it appears from what has been said, that when the adjusting the Limits was referred to the Plenipotentiaries, it became a Demand of *Spain* that they should conclude even within six Months. The other Disputes referred to them were such as could not admit of two Days instead of two Months Litigation; or such as, if they rendered a Prolongation of two Months necessary, should not have been referred to the same Plenipotentiaries for the very Reason that they required a tedious Discussion. Such were the disputed Privileges of the Consuls, Vice-Consuls, and Merchants in *Old Spain*. Thus were our Possessions as well as Rights brought into Dispute, and yet the Ministers were sanguine enough to hope, that by inserting the Word *Possessions* in the Address, some Persons particularly interested in those Possessions might be induced under this thin Vail of Compliment

ment to the Crown, to excuse the Conduct which brought them into Dispute by the Treaty of *Seville*, and left them there by this Convention. The Expectations of the Ministers were not disappointed. Let us not be surprized at it. What Room is there to be surprized that some Men should serve the Turn of a Minister, when they can shelter themselves under the least trifling Pretence, whilst so many others are ready to serve him at every Turn, without the least Pretence, and at the greatest Expence of their Country?

If the Convention deserved Censure, and the Minister who owned it Punishment, for what it did not determine, for leaving our Rights and Possessions in Dispute, and in Truth for making them disputable, it was at least as liable to Objection in the sole Point determined by it. The Dishonour and Damage accruing to the Nation, by consenting to *treat* on the Freedom of our Navigation to and from the *West-Indies*, instead of asserting it as explicitly and as strongly as we could assert that of our Navigation to and from the *Mediterranean*, or in our own Channel, are indeed of much greater Moment, than the Particular I am going to mention, but this is of Moment too, in Point of Dishonour and Damage both. A bare Exposition of Fact will justify what I have said.

The *Affiento* Contract and the Convention of 1716 being enumerated among the other Treaties in the first Article of this Convention, the

the Disputes subsisting between the *South Sea* Company and the Court of *Madrid* might seem to be referred to the Plenipotentiaries, and the rather, because the *Extracts* of Papers which the Minister suffered to be laid before Parliament were silent on that Head. But the Papers produced by the Company shewed, that the King of *Spain* had actually refused to admit any farther Negotiation concerning these Disputes, and that they were not referred, but determined in Favour of *Spain*, in order to obtain this Convention. It was indeed asserted, That the *Spanish* Declaration concerning the Company had no more Relation to the Convention than it had to the grand Alliance. But that Assertion was too daring for any Body but the Grand Assertor to make. His very Friends disowned it, and the Shame of it was left upon himself, and the Declaration was admitted by all, to be the *Condition* of our obtaining the Convention.

The Court of *Spain* had for some Time insisted that the Dollars payable by the Company for the Duty on Negroes imported into the *Spanish West-Indies*, should be paid at a higher Price of Exchange, than the *South Sea* Company thought could be justly demanded. That Court had likewise insisted, that the King of *Spain's* Share of the Profit of the last annual Ship, which the Company had sent to *America*, with *European* Goods, should be immediately paid, and upon the Company's not complying, a *Cedula* for another annual Ship was refused

refused them. On the other Hand, the *South Sea Company* demanded of the King of *Spain*, that their Effects amounting to a great Value, seized on several Ruptures between the two Crowns, and detained by his Officers in *America*, should be restored. Other Disputes had likewise arisen, but they were of less Importance, and rather Difficulties thrown into the former Disputes, than Matters that of themselves required a Convention to settle them.

The *South Sea Company* therefore agreed in 1737 † with the *Spanish* Minister at *London*, upon a Plan for adjusting their principal Differences with the Court of *Spain*. This Plan was approved by his Majesty here, and sent into *Spain* to be ratified. By this Plan, the *South Sea Company*, upon a previous Condition that the King of *Spain* should settle the Account of their reprefaliated Effects, and order the Payment of the Balance in a Time to be limited, *to the Satisfaction of the Company*, consented, on their Side, to settle the Account of the Negro Duties at the high Price demanded, and to pay to the King of *Spain* his quarter Part of the Profit of their last annual Ship, it being understood that the Company should for the future have full Cedula's for their annual Ships. Some Time afterwards ‡ an explanatory Plan was likewise sent into *Spain*, containing the particular Methods by which Satisfaction should be given to the Com-

† June 30. 1737. ‡ Dec. 31. 1737.

pany for their reprefaliated Effects, and the Loss they had fufained by the Interruption of their annual Ships. Upon thefe Foundations a Negotiation was for fome Time carried on, and in Confequence of it Cedula's for Reftitution of the Company's Effects were fent from *Spain*. The Company finding in † thefe fome Claufes repugnant to the Plan, in Confequence of which they were granted, returned them to their Agent at *Madrid*, pointing out the Alterations they expected. And the Answer * they received from him was, ' That the King of *Spain* finding that all their Agent was authorized to do, was to receive new Advantages, inftead of complying with his juft Demands, his Catholick Majefty had taken the Refolution to referve his Right to fufpend the Courfe of the Affiento Contract, in Cafe the Company fhould not pay within a fhort Term, the 68,000 l. which they confeffed to be due, on account of the Dollars and Profits of the *Royal Caroline*;' which Right, fays Mr. *Keene*, he has actually referved, by fending me a Declaration to that Effect, antecedently to the Signing the National Convention, *and without which he would not have proceeded to the concluding and executing an Inftrument fo neceffary* for preferving the publick Tranquillity, and re-eftablifhing an ufeul and lafting Friendfhip between the two Crowns. In the Sequel of Mr

† Oct. 12. 1738.

* Jan. 13. 1739.

Keene

Keene mentions Reasons on which the King of *Spain* had taken this Resolution, and which were not hard to find; as well as an Expedient he himself had thought on, that had no Effect. How indeed should it? The King of *Spain* had another Reason, and another View, which *Keene* saw, no doubt, and seems to have favoured. Tho' the King of *Spain* had determined to reject the Alterations, proposed by the Company, to the Concessions he had offered, there was no need of such a sudden Declaration of a Resolution to reserve his Right to suspend the Course of the Assiento, in case the Company did not pay within a short Term the 68,000 *l.* due on account of the Dollars and the Profits of the *Royal Caroline*. But a precipitate Declaration of this Kind was proper and exceedingly well timed, if the King of *Spain* intended to make his Advantage of the Necessity our Minister was under of having some Gewgaw to shew to amuse Mankind, and to get over another Session, the ultimate End of all his political Projects. The King of *Spain* might expect very reasonably that he should compel the *South Sea Company*, by this Method of proceeding, to pay the Money he demanded from them, without being obliged to pay that which this Company demanded from him, or to give any other Security for the Payment of it, than the Professions with which *Keene* endeavoured to amuse them. To bring this about he might think that nothing more was necessary than to declare in the Body of
the

the Convention, or in the Ratification of it, that he appropriated this Sum of 68,000 *l.* to be Part of the 95,000 *l.* which he agreed to pay in Satisfaction for the Depredations committed on our *West India* Traders; and that if the Company refused to advance it, he would exercise the Right he had reserved of suspending the Assiento. That he took this Method I make no doubt, so many Circumstances concurring to establish the Opinion. Intelligence from Abroad, and Reports at Home, had led Men to believe that a Convention had been signed at *London* in the Month of *September*, and thus much I believe was owned at first; but then it was said that the Substance of such a Declaration as I have mentioned was contained in the *Spanish* Ratification of this Convention; and after this there appeared the strongest Affectation imaginable of denying that any such Convention had been signed. And when the Parliament met, a Convention signed in *Spain* in the Month of *January* was produced, with a Ratification in the common Form. By this Expedient a Declaration which *Spain* had made, and they accepted, which was to have the Effect of a Defeazancy, and which was as valid to all the Purposes of *Spain* as any other, appeared neither in the Convention nor the Ratification. A most ingenious Expedient truly, and worthy of our Minister, tho' some Part of the Honour may be due, perhaps, to that able Statesman his Brother. But then the Communication of this Declara-

tion by the *Spanish* Minister to the *South Sea* Company, soon discovered the dirty Secret. A dirty Secret it was, and dirtily carried on, nothing could be more partial, more unjust, or more tyrannical than the King of *Spain's* Declaration. In order to make a trifling Reparation to some of our Merchants who had been plundered by his Subjects, he declares his Royal Will to plunder some others of them himself; for to oblige the *South-Sea* Company to pay his Demands without any Security for his Payment of theirs, is to plunder and to rob. He prescribes a short Term for the Payment to be made by the Company, and gives himself a Delay of four Months, instead of two, which were said to have been given him by the first Convention; in short, if his arbitrary Demand be not complied with, he threatens an open Infraction of the Treaty of *Utrecht*. To soften this the Minister had asserted with his usual Veracity and Modesty, that the *South Sea* Company might still proceed to negotiate at *Madrid*, and that their Negotiation at that Court had been stopped only for want of their full Powers to their Agent. But this Assertion turned to his immediate Confusion, for it was immediately proved to his Face, and even by *Keene's* Letter, that the King of *Spain* absolutely refused to treat any longer with the Company, and insisted that they should advance the Sum of Money, which, by the Way, they had never owned to be due, but had offered as the Price

of obtaining Justice from this Prince. By accepting this Declaration the *South Sea Company* was given up, and left at Mercy, the Convention was ratified, and the Minister, with whose Privy and Consent the *Spanish Declaration* had been made was avowed. In order to palliate the Sacrifice that was made on this Occasion of common Sense, something was to be said, and weak as that was, it shall be mentiond, that no Partiality, no want of Candour may be objected to this State of the Rise and Progress of our Disputes with *Spain*, and of the Conduct of our Ministers. It was said then, that the Declaration reserved only the King of *Spain's* Right of suspending the *Assiento Contract*, in Case he had any such Right, and that our accepting of it gave him no new Right. But if our Ministers denied that Right, nothing could be more ridiculous than accepting the Declaration. Either this Acceptance was the meanest Trick to amuse the Court of *Spain*, or was the lowest Quibble to impose upon the *British* Nation. Was the Right of suspending the *Assiento* openly denied? if it was not, the Nation, in whose Place the Company stood, was notoriously betrayed. If it was denied, the Dispute then must have been given up on the one side or the other. Had the *Spaniards* yielded, the Declaration would not have been made. Had our Ministers yielded, the Declaration would have been made, and it would have been concealed. It was made, it was concealed; the only Reason

son therefore we have to doubt whether our Ministers yielded up our Right or not, is that it does not appear they ever asserted it.

It was insisted upon farther, That the Stipulation of 95,000 *l.* to be paid by *Spain*, being in the Body of the Convention, the Court of *Spain* stood engaged to pay that Sum, whatever the *South Sea* Company determined upon the Declaration. The Engagement of the Court of *Spain* was, by the Convention, absolute, no doubt. That could not be denied. But it is as true, that if we suppose notwithstanding the just Grounds of suspecting the contrary, that our Ministers did not agree that the 68,000 *l.* should make Part of the *Spanish* Payment; yet it is evident, that as far as in them lay they favoured the Court of *Spain* in her unjust Demand on the *South Sea* Company, and suffered her to threaten, that she would punish the Company by violating her Treaties with the Crown of *Great Britain*.

The Nation then, although the *South Sea* Company did not comply, was to be paid the large Sum of 95,000 *l.* This Sum was turned every way to do Honour to the Convention. It was all we had obtained, and therefore it was every thing we wanted. It was paying Costs of Suit; it was a Confession that the seizing of our Ships was an Injury; it was full and ample Reparation for all the Losses of our Merchants; and it was an Earnest, that in the future Negotiation the *Spaniards* would refuse us nothing. But at the very Time when the

Spaniards

Spaniards granted this, they must have refused us something, or our undoubted Right to a free Navigation must not have been asserted by our Ministers. If it was asserted, and not granted, something had been denied us, something that would be denied us again; since, besides other Reasons that encouraged the *Spaniards* to deny it, they knew by Experience that the Depredations of one Summer would more than reimburse them for the whole Sum they advanced. But besides, it had more than once appeared, that this supposed necessary Connection between the Promise of Money and the Acknowledgment of Rights had no Foundation. The *Spaniards* had formerly offered to compound for their past Depredations by a gross Sum. That offer indeed came to nothing, but this was occasioned only by a Sum, in their Opinion too large, being demanded. Every *Cedula* granted by *Spain* for Restitution of any particular Capture, it matters not whether obeyed or not, was still a stronger Confession than any thing in the Convention could be. But neither the *Spaniards* nor our Ministers had ever considered these particular *Ceduls* as Confessions of the Injustice of the *Spanish* Pretension in general. An implied Confession of that kind, if it was one, was therefore not a new thing obtained by the Convention. But there is evidently no Pretence to say that such a Confession was even implied. The *Spaniards* maintained their Right to make Captures, but consented to pay for

for such as were made unjustly, that is, Capture to which their Pretension did not extend. Nay if an implied Confession had been offered by *Spain*, it should have been rejected with Scorn, as a mean Subterfuge to avoid an open Acknowledgment of the Rights of the Nation.

That full and ample Reparation was obtained for our Merchants, was not long insisted upon; it could in no Light be supported. The Losses by the very Account given in to justify the Convention amounted to 343,277 l. Sterling, and by other Accounts to above 400,000 l. To satisfy this Demand all that was obtained from *Spain* was 95,000 l. The remaning Sum of 248,277 l. must therefore be either paid by *ourselves* or deducted from the Account. All the Demands that the *Spaniards* on the other Side could form against *Britain* by an exorbitant Computation did not exceed 180,000 l. And even allowing them that Sum, the Balance payable to *Britain* by *Spain* would have amounted, according to the Account, to 163,277 l. instead of 95,000 l. But as their Demands could not justly exceed 60,000 l. the Balance due to us would have been 283,277 l.

Our Demands therefore were under some Pretence or other to be reduced. And for this purpose it was said, that 200,000 l. would satisfy every Claimant. But when the Reasons for this vast Deduction of 143,277 l. were demanded, it was answered, that many Claimants were not to have Satisfaction; that all
Demands

Demands for Ships taken in Time of War were struck off, all Claims over-rated were reduced, and some Claims not made out were rejected. But no Account was pretended to be given, by what Rule the Deduction had been made, no List of the Sufferers by it had been taken, nor had any Notice been given to any one Sufferer that his Proofs were insufficient; so far from it, that when, upon the Report of a Convention being signed, a Sufferer demanded whether he was included among those who were to receive Satisfaction, he was told, That it was not known whether he was, or was not. It was confessed at last, that the Money to be paid, was to be divided among such Sufferers as should find Favour in the Eyes of Commissioners to be appointed by our Minister.

However the Reduction of our Demands to 200,000 *l.* was not yet found sufficient. As the Father of the Convention said the first Day, the Account was to be adjusted by accepting something *less* than was due to *us*, and giving the *Spaniards* somewhat *more* than was due to *them*.

The Sum of 60,000 *l.* was therefore admitted to be owing by *Britain* for Losses sustained by the *Spaniards*; and this Sum was to be given to our Merchants to compleat the whole Sum that was to be paid them for their Losses. By this Allowance the *Spanish* Ships taken in 1718, although in Time of War, were to be paid for. It had been agreed by the Treaty of 1721, to restore these Ships to *Spain* in the Condition they then were, or the Value of

such as were fold ; and by the same Treaty the Ships and Effects taken from the *British* Subjects, in Time of War, were agreed to be restored.

After the Rupture of 1726-7, by the Treaty of *Seville* 1729, the Examination of what concerned the *British* Ships taken before the Peace, as well as the *Spanish* Claim for the Ships taken in 1718, was referred to Commis-saries. But they never making any Report, our Ministers were left at Liberty to strike off the *British* Claim for Ships taken in War, and to admit that of the *Spaniards*. And even their Demand, thus admitted, remained over-rated, by allowing to the *Spaniards* the Value of the Ship *Isabella*, although they had taken the Ship herself from *British* Merchants, who had bought her from our Captors, and fitted her out at a great Expende. She was indeed one of the Ships of War taken from the *Spaniards* in 1718, but was afterwards left in their Hands at *Cadix*, as soon as they claimed and seized her ; and since they had got the Ship, it was ridiculous to allow them the Price of her likewise. The *British* Purchasers must have been shamefully wronged if not re-im-bursed the Money the Ship had cost them, and it was an extraordinary Concession to *Spain*, to re-imburse them without deducting the Sum from the *Spanish* Accompt.

The 343,277 *l.* being, by these Allowances, on one Side, and Deductions on the other, reduced to 140,000 *l.* to be paid by *Spain*, this Sum was still too large to be obtained.

All

All we were to expect was 95,000 *l.* another Deduction therefore was to be made. And accordingly 45,000 *l.* was struck off; which was said to be done under Pretence of prompt Payment. After the *Spaniards* had for many Years injuriously detained the Effects of the *British* Subjects, the *British* Ministers stipulate that so large a Sum shall be given, as an Inducement, to those who had robbed us, to make some Restitution. The Uncertainty of the Payments in the *West-Indies*, and even in *Old Spain*, was urged to excuse this Defalcation. But no Reason was given why our Ministers had not obtained a Promise of 140,000 *l.* as much to be relied on, as the Promise of 95,000 *l.* for which they claimed so much Honour. The Uncertainty of the Payments was not surely an Argument used by the *Spaniards*. It must have been, by the Nature of it, suggested by our Ministers. An Offer of so large an Abatement for a Difference so immaterial in the Opinion of the *Spaniards*, who supposed that both Payments were equally certain, must have been made by our own Ministers; and by such an Offer, they shewed as much Unconcern for the past Losses of our Merchants, as they had shewed for the future Security of our Trade.

This last and capital Error in the Convention, no Cunning could skreen. That there was no Stipulation of future Security to our Trade was admitted. The Objection that our Ministers had not complied with the Address
of

of Parliament *effectually* to convince the Court of *Spain* that his Majesty would *no longer* suffer these Depredations, remained unanswered, nay confessed. How could it be denied, since the Depredations were not even to be suspended? It appeared that the Convention, once that best of Treaties, that glorious and final Determination of all our Disputes, was now become no more than a *Preliminary*. In 1727 we had Preliminary Articles, in 1728 a Preliminary Act, in 1729, as to *Britain*, a Preliminary Treaty; in 1732 a Declaration and Preliminary Commissaries, who were to have made a Preliminary Report, and now in 1738-9 we had obtained a Preliminary Convention. The End of all our Preliminaries to 1730 had been by a Silence upon our most undoubted Rights, to get out of the Hands of the *Spaniards* the *South Sea Ship the Prince Frederick*; the End of all our Negotiations since has been to purchase by the like Silence an inconsiderable Sum of Money for our Losses; so that it appears as if our Ministers had in their whole Conduct considered the most valuable Rights of the Nation, only with a View to the Price for which they could be sold.

If the Convention had been considered merely as an Effect of the Proceedings of the former Session of Parliament, and if the single Point of Deliberation had been, whether in Pursuance of the Addresses Reparation had been obtained, and such Preliminaries agreed to, for the other Point, as were agreeable to Justice, Prudence

Prudence and the Honour of the Nation, to which some Persons insisted that all Debates concerning it ought to be confined: Even in that partial Light we have seen that it would have appeared extremely defective. But surely the proper Heads of Consideration, and those which occurred to every Man who was, in earnest, solicitous for the Interest and Honour of *Great Britain*, were of a larger Extent and higher Nature. They were these, in short, Whether it was not criminal, ruinous and dishonourable to agree to any Preliminaries, until an undisputable, plain and essential Right was asserted; until Justice for Cruelties as well as Reparation for Damages was obtained, and until a Pretension unsupported and unsupportable, the Child of the Weakness of our Ministers, the Shame of our Country, and the Ruin of our Trade, had been disavowed, given up, and more expressly retracted, than ever it had been asserted. Whether it was not criminal to sign a Treaty, without obtaining a Condition, which the King and the Parliament had pointed out to be the great Object of the Negotiation; a Condition to be insisted upon, not to be referred to Discussion; a Condition that could not be delayed without being refused, and on the Refusal of which the Nation had engaged to support the King in whatever should be necessary to vindicate his Honour and assert their Rights: Whether it was not ruinous, to refer a Right to be discussed that was invalidated by being brought into Dispute,

Dispute, and to permit that while the Plenipotentiaries debated, the *Spaniards* should continue Depredations, long before this time become intolerable: Whether it was not dishonourable, to accept of any implied, supposed, forced, or elusive Acknowledgment of a Right which our very Ministers ought to have blush'd to see disputed, against a Pretension long exercised, openly avowed, formally demanded, and resolutely insisted upon, supposing such an Acknowledgment to have been fairly deducible from the Terms of the Convention, as it was not.

It was insisted in Opposition to such Queries as these, that our Right to a free Navigation is not referred to the Plenipotentiaries. Vain and contemptible Subterfuge! Is this Right asserted? Do we enjoy it? or do the *Spaniards* even suspend their Depredations? It was said, that to have stipulated a Suspension of Depredations, would have implied a Right in the *Spaniards* to commit them: Absurd and scandalous Quibble. Is it declared that they are unlawful? Or can our Merchants continue their Trade with Security? Was the suspending our Settlements and Fortifications in *Georgia* and *Carolina* considered by *Spain*, who demanded such a Suspension, as implying our Right to continue them? Or was not the very Reverse of this true? And has not the Practice of all Ages and all Nations been conformable to what I assert? Some great Logicians attempted, by drawing the Words *visiting of Ships*, &c. from one Sentence, and coupling them

them with Care should be taken to put an entire stop to them, which related to the Word *Differences* in another, to form a Sophism fit for our Plenipotentiaries to use. But to chicanery about Words and Expressions in the Preamble or in the Body of the Treaty was to treat Mankind at Home, as the *Spaniards* treat the unhappy *British* Subjects who fall into their Hands in *America*. These are mockt with the Form of a Trial, of Pleading, of Evidence, and of Judgment. Is the Nation to be mockt with implied Stipulations, with Constructions, Presumptions, and quibbling Distinctions? There is no doubt, that with much grammatical Pains, and treating the Convention like a Will in the Court of Chancery, a Man may bewilder himself in such a Labyrinth of Words, that with equal Foundation he may impose any Sense on any Article in it. But is this asserting our Rights? is this securing the Freedom of our Navigation? is this complying with the Sense of Parliament, or obeying the Order of the King? For in Duty to him we must suppose that his Orders were agreeable to his Answer given to the Houses, tho' the Execution of them was not. In short, did this answer the just Expectations of the Nation? it will not, it cannot be said. The Interest of the Nation could not have been so sacrificed, if it had been at all considered: Our Ministers could not have forgot the Disputes that arose upon the Preliminaries in 1727, by such another mean Acceptance of

an implied Acknowledgement of Rights that should have been openly asserted. But something was to be said. The Trade of the Nation could not be avowedly given up, and People must be diverted from considering whether it was so or not, and for whose Sake this Convention was made at the Expence of our national Interest and Honour.

This being the Sum, Substance and Strength of the Debates of those, who, conscious to themselves that they could not justify the Convention directly, hoped to cover it, and to impose on Mankind by playing between the Address and the Convention, and by pleading for the one, when they could defend the other; it seems unnecessary to enter much farther into their Arguments. And yet some of them deserve Notice rather for the Reflections they suggest, than for their own Weight. Two of them I must mention, and they were such as could have no other Effect than that of provoking still more Indignation against the Minister. A supposed Design of *distressing the Minister*, by objecting to his Negotiations with *Spain*, and to the Fruits of them in this Convention was urged with great Vehemence. It is hard to say which is the greatest, the Absurdity of the Argument, or the Indecency of those who urged it, or the Insolence of him who suffered it to be urged. If the Treaty could be justified, the Minister had no Distress to fear; if it could not, he deserved to be reduced

duced to the utmost. If it may be supposed, that there are Men willing to distress him at any rate, it is evident that there are Men willing to support him at any rate; and in the present Case, as the national Interest could not be asserted and maintained without the Condemnation of his Conduct, it may be said, that there were not wanting those who chose to expose the national Interest still farther, rather than not skreen the Minister.

Another Argument, sounded very high, and employed to the same purpose, was, That the Question was reducible to this single point: Whether we should have War or Peace with the *Spaniards*? that a War with *Spain* would draw on a War with *France*, and that the ill Condition wherein the Nation was, exhausted at Home and unally'd Abroad, was therefore a sufficient Answer to that Question. This Argument, if it proved any thing in the present Case, proved our State to be much more miserable than the greatest Enemies of the Administration ever represented or imagined it to be. If we are utterly unable to resent Injuries, and to assert our Rights in this Case, we are unable to do so in any other, and it will follow that we have been brought by the very Minister thus defended, from being one of the most considerable Nations in *Europe*, to be the poorest, the weakest, and the most contemptible. It is true, no doubt, that we are brought very low, and may in a short time be brought by the same Hands to

as low a Condition as that in which we were represented to be. But there is a Remainder of Wealth, there is a Remainder of Strength, there are Sparks of Life and Courage still alive in *Britain*; and whenever her Interest ceases to be sacrificed to the Interest, Humour, or Mistakes of the same Minister, that Wealth will be found, that Strength will exert itself, that Life and Spirit will flame out.

But farther, admitting that it was evident, that we must have a War with *Spain*, or give up our Rights to her; what had encouraged *Spain* to attempt such an Usurpation at the Risque of a War, and a Maritime War too, with *Great Britain*, so much as the timid and mean Conduct of our Administration, from the Hour he came to the Head of it who is still there? She has proportioned her Insults to our patience, and the more we have born the more we have been bullied by her. Might she not be elated enough at last to hope, either that *we should suffer her Usurpation to be fixed upon us, rather than engage in a War with her*, or else that *the War would be waged under the Direction of the same Councils*, whose Want of Ability and of Vigour she had long experienced; and whose Efforts she could not therefore apprehend?

That she has been disappointed in the first of these, she herself attributes in her Manifesto

felto to the *Cries of the People*. That she
 may have cause to apprehend our Efforts in
 the War, we may hope from the Spirit, and
 from the Weight of the same People. The
 want of Ability in our Ministers perhaps is
 not to be denied, is not to be concealed. The
Spaniards have seen it, and this Nation still
 groans under the Effects of it. Tho' this be
 certain, yet may we hope for Success in the
 War from the Ardour of the King, and the
 Force and Resolution of his People. We
 know the Justice, we know the Impor-
 tance, and we are willing to submit to the
 necessary Burthens of the War. We see, we
 have declared what ought to be acquired by
 it. An explicit Acknowledgment of our Rights
 is necessary in point of Honour; an effectual,
 a real Security for the Freedom of our Navi-
 gation in the Seas of *America*, is necessary in
 point of Safety. *Spanish* promises, Cedula's,
 and Treaties have been found vain and frivo-
 lous Amusements. A commanding Force in
 those Seas can alone secure us. A Harbour, a
 Settlement, a Colony can alone conclude our
 Disputes; assert and preserve the Rights of
Great Britain, and protect the Trade even of
Spain, since she has confessed that she is not
 able herself to secure her Trade, without com-
 mitting the grossest and most intolerable In-
 sults on other Nations. These the people ex-
 pect, these they demand, and to these they
 have a Right. They have a moral Certainty of
 Success too, if their Treasure, if their Valour,

if

if their Spirit be properly applied, if the Honour of the King, and the Interest of the Nation be alone consulted.

Nothing can disappoint their Expectations, but the same pusillanimity, the same profusion, the same Mismanagement, that have lavished and consumed the Fruits of a twenty Years peace. Should the War be considered only as it affords Opportunities and pretences to multiply Offices, to encrease Dependence, to accumulate Influence, it may be rendered yet more ruinous, more ignominious than the preceeding Negotiations; and the Methods necessary to secure Indemnity for such a Conduct, must scatter the Remains of our Constitution.

F I N I S.